

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

Introduced by Senator Pavley

February 21, 2014

An act to amend ~~Section 8574.7~~ *Sections 8670.37.53 and 8670.55* of the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law directs the governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including, among others, an environmentally and ecologically sensitive areas element. *prohibits a person from operating a marine facility unless the owner or operator of the marine facility has obtained a certificate of financial responsibility. To receive a certificate of financial responsibility from the administrator for oil spill response, the act requires the owner or operator of a marine facility to make a specified showing of financial resources to the satisfaction of the administrator. The act authorizes the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources for a period of not longer than 3 years if the administrator*

makes specified findings. The act establishes the Oil Spill Technical Advisory Committee and requires the committee to provide recommendations to the administrator and other specified state entities regarding the implementation of the act.

This bill would add an additional element that considers the variability in physical and chemical properties of oil transported within and to the state and its waters to the marine oil spill contingency planning section of the California oil spill contingency plan. reduce the time period for which the administrator is authorized to issue a certificate of financial responsibility based on the lesser showing to a maximum of 2 years. The bill would require the committee to monitor and evaluate the modes of transportation of oil into and within the state and the properties of the oil to identify necessary changes in oil spill response and preparedness programs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares both of the*
- 2 *following:*
- 3 *(a) Shifts in how oil is transported to and within the state change*
- 4 *the accompanying risks and potential locations of oil spills.*
- 5 *(b) Properties of crude oil transported to and within the state*
- 6 *prior to refining may change over time and alter the risks posed*
- 7 *by an oil spill to human and environmental health and safety and*
- 8 *in responding to an oil spill.*
- 9 *SEC. 2. Section 8670.37.53 of the Government Code is*
- 10 *amended to read:*
- 11 8670.37.53. (a) To receive a certificate of financial
- 12 responsibility for a tank vessel or for all of the oil contained within
- 13 ~~such a~~ *the tank vessel, the applicant shall demonstrate to the*
- 14 satisfaction of the administrator the financial ability to pay at least
- 15 one billion dollars (\$1,000,000,000) for any damages that may
- 16 arise during the term of the certificate.
- 17 (b) The administrator may establish a lower standard of financial
- 18 responsibility for small tank barges, vessels carrying oil as a
- 19 secondary cargo, and small marine fueling facilities. The standard
- 20 shall be based on the quantity of oil that can be carried or stored
- 21 and the risk of spill into marine waters. The administrator shall

1 not set a standard that is less than the expected costs from a
2 reasonable worst case oil spill into marine waters.

3 (c) (1) To receive a certificate of financial responsibility for a
4 marine facility, the applicant shall demonstrate to the satisfaction
5 of the administrator the financial ability to pay for any damages
6 that might arise during a reasonable worst case oil spill into marine
7 waters that results from the operations of the marine facility. The
8 administrator shall consider criteria including, but not necessarily
9 limited to, the amount of oil that could be spilled into marine waters
10 from the facility, the cost of cleaning up spilled oil, the frequency
11 of operations at the facility, and the damages that could result from
12 a spill.

13 (2) The administrator may issue a certificate for a marine facility
14 upon a lesser showing of financial resources for a period of not
15 longer than ~~three~~ two years if the administrator finds all of the
16 following:

17 (A) The marine facility was operating on January 1, 1991.

18 (B) Continued operation is necessary to finance abandonment
19 of the marine facility.

20 (C) The financial resources the operator is able to demonstrate
21 are reasonably sufficient to cover the damages from foreseeable
22 spills from the facility.

23 *SEC. 3. Section 8670.55 of the Government Code is amended*
24 *to read:*

25 8670.55. (a) (1) The committee shall provide
26 recommendations to the administrator, the State Lands
27 Commission, the California Coastal Commission, and the San
28 Francisco Bay Conservation and Development Commission on
29 any provision of this chapter including the promulgation of all
30 rules, regulations, guidelines, and policies.

31 (2) *Pursuant to paragraph (1), the committee shall monitor and*
32 *evaluate the modes of transportation of oil into and within the*
33 *state and the properties of the oil to identify any necessary changes*
34 *in oil spill response and preparedness programs to meet the goals*
35 *of this chapter.*

36 (b) The committee may, at its own discretion, study, comment
37 on, or evaluate, any aspect of oil spill prevention and response in
38 the state. To the greatest extent possible, these studies shall be
39 coordinated with studies being done by the federal government,
40 the administrator, the State Lands Commission, the State Water

1 Resources Control Board, and other appropriate state and
2 international entities. Duplication with the efforts of other entities
3 shall be minimized.

4 (c) The committee may attend any drills called pursuant to
5 Section ~~8601.10~~ 8670.10 or any oil spills, if practicable.

6 (d) The committee shall report biennially to the Governor and
7 the Legislature on its evaluation of oil spill response and
8 preparedness programs within the state and may prepare and send
9 any additional reports it determines to be appropriate to the
10 Governor and the Legislature.

11 (e) On or before August 1, 2005, the committee shall review
12 the Department of Finance report required under Section 8670.42
13 and prepare and submit to the Governor and the Legislature
14 comments on the report, including, but not limited to,
15 recommendations for improving the state's oil spill prevention,
16 response, and preparedness program.

17 (f) ~~This section shall become operative on January 1, 2012.~~

18 ~~SECTION 1. Section 8574.7 of the Government Code is~~
19 ~~amended to read:~~

20 ~~8574.7. The Governor shall require the administrator, not in~~
21 ~~conflict with the National Contingency Plan, to amend the~~
22 ~~California oil spill contingency plan by adding a marine oil spill~~
23 ~~contingency planning section that provides for the best achievable~~
24 ~~protection of the coast and marine waters. "Administrator" for~~
25 ~~purposes of this section means the administrator appointed by the~~
26 ~~Governor pursuant to Section 8670.4. The marine oil spill~~
27 ~~contingency planning section shall consist of all of the following~~
28 ~~elements:~~

29 ~~(a) A state marine response element that specifies the hierarchy~~
30 ~~for state and local agency response to an oil spill. The element~~
31 ~~shall define the necessary tasks for oversight and control of cleanup~~
32 ~~and removal activities associated with a marine oil spill and shall~~
33 ~~specify each agency's particular responsibility in carrying out these~~
34 ~~tasks. The element shall also include an organizational chart of~~
35 ~~the state marine oil spill response organization and a definition of~~
36 ~~the resources, capabilities, and response assignments of each~~
37 ~~agency involved in cleanup and removal actions in a marine oil~~
38 ~~spill.~~

39 ~~(b) A regional and local planning element that shall provide the~~
40 ~~framework for the involvement of regional and local agencies in~~

1 the state effort to respond to a marine oil spill, and shall ensure
2 the effective and efficient use of regional and local resources in
3 all of the following:

4 (1) ~~Traffic and crowd control.~~
5 (2) ~~Firefighting.~~
6 (3) ~~Boating traffic control.~~
7 (4) ~~Radio and communications control and provision of access~~
8 ~~to equipment.~~

9 (5) ~~Identification and use of available local and regional~~
10 ~~equipment or other resources suitable for use in cleanup and~~
11 ~~removal actions.~~

12 (6) ~~Identification of private and volunteer resources or personnel~~
13 ~~with special or unique capabilities relating to marine oil spill~~
14 ~~cleanup and removal actions.~~

15 (7) ~~Provision of medical emergency services.~~

16 (8) ~~Consideration of the identification and use of private working~~
17 ~~craft and mariners, including commercial fishing vessels and~~
18 ~~licensed commercial fishing men and women, in containment,~~
19 ~~cleanup, and removal actions.~~

20 (c) ~~A coastal protection element that establishes the state~~
21 ~~standards for coastline protection. The administrator, in~~
22 ~~consultation with the Coast Guard and Navy and the shipping~~
23 ~~industry, shall develop criteria for coastline protection. If~~
24 ~~appropriate, the administrator shall consult with representatives~~
25 ~~from the States of Alaska, Washington, and Oregon, the Province~~
26 ~~of British Columbia in Canada, and the Republic of Mexico. The~~
27 ~~criteria shall designate at least all of the following:~~

28 (1) ~~Appropriate shipping lanes and navigational aids for tankers,~~
29 ~~barges, and other commercial vessels to reduce the likelihood of~~
30 ~~collisions between tankers, barges, and other commercial vessels.~~
31 ~~Designated shipping lanes shall be located off the coastline at a~~
32 ~~distance sufficient to significantly reduce the likelihood that~~
33 ~~disabled vessels will run aground along the coast of the state.~~

34 (2) ~~Ship position reporting and communications requirements.~~

35 (3) ~~Required predeployment of protective equipment for~~
36 ~~sensitive environmental areas along the coastline.~~

37 (4) ~~Required emergency response vessels that are capable of~~
38 ~~preventing disabled tankers from running aground.~~

~~(5) Required emergency response vessels that are capable of commencing oil cleanup operations before spilled oil can reach the shoreline.~~

~~(6) An expedited decisionmaking process for dispersant use in coastal waters. Prior to adoption of the process, the administrator shall ensure that a comprehensive testing program is carried out for any dispersant proposed for use in California marine waters. The testing program shall evaluate toxicity and effectiveness of the dispersants.~~

~~(7) Required rehabilitation facilities for wildlife injured by spilled oil.~~

~~(8) An assessment of how activities that usually require a permit from a state or local agency may be expedited or issued by the administrator in the event of an oil spill.~~

~~(d) An environmentally and ecologically sensitive areas element that shall provide the framework for prioritizing and ensuring the protection of environmentally and ecologically sensitive areas. The environmentally and ecologically sensitive areas element shall be developed by the administrator, in conjunction with appropriate local agencies, and shall include all of the following:~~

~~(1) Identification and prioritization of environmentally and ecologically sensitive areas in marine waters and along the coast. Identification and prioritization of environmentally and ecologically sensitive areas shall not prevent or excuse the use of all reasonably available containment and cleanup resources from being used to protect every environmentally and ecologically sensitive area possible. Environmentally and ecologically sensitive areas shall be prioritized through the evaluation of criteria, including, but not limited to, all of the following:~~

~~(A) Risk of contamination by oil after a spill.~~

~~(B) Environmental, ecological, recreational, and economic importance.~~

~~(C) Risk of public exposure should the area be contaminated.~~

~~(2) Regional maps depicting environmentally and ecologically sensitive areas in marine waters or along the coast that shall be distributed to facilities and local and state agencies. The maps shall designate those areas that have particularly high priority for protection against oil spills.~~

~~(3) A plan for protection actions required to be taken in the event of an oil spill for each of the environmentally and~~

1 ~~ecologically sensitive areas and protection priorities for the first~~
2 ~~24 to 48 hours after an oil spill shall be specified.~~

3 ~~(4) The location of available response equipment and the~~
4 ~~availability of trained personnel to deploy the equipment to protect~~
5 ~~the priority environmentally and ecologically sensitive areas.~~

6 ~~(5) A program for systemically testing and revising, if necessary,~~
7 ~~protection strategies for each of the priority environmentally and~~
8 ~~ecologically sensitive areas.~~

9 ~~(6) Any recommendations for action that cannot be financed or~~
10 ~~implemented pursuant to existing authority of the administrator,~~
11 ~~which shall also be reported to the Legislature along with~~
12 ~~recommendations for financing those actions.~~

13 ~~(e) An element that considers the variability in physical and~~
14 ~~chemical properties of oil transported to, and within, the state and~~
15 ~~its waters.~~